

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 732 of 1997

in

SPECIAL CIVIL APPLICATION No 4078 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JAYPRAKASH MADANLAL

Versus

DUSHYANTRAI VINAYAKRAI  
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Appearance:

MR TUSHAR MEHTA for Petitioner  
MR RAVINDRA SHAH for Respondent No. 1  
MR BS PATEL for Respondent No. 2  
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CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE S.D.PANDIT

Date of decision: 01/08/97

ORAL JUDGEMENT Per:Thakker J)

This appeal is filed against an interim order passed by the learned single Judge in Special Civil Application No. 4078 of 1997. That petition was also filed against an interim order passed by the Gujarat Co-operative Tribunal against an order passed by the Board of Nominees, Baroda. The proceedings are pending before the Board of Nominee as well as before the Tribunal. Thus it is at an interlocutory stage that the parties are before us. Mr. Mehta appears for the appellant. The appellant, one of the members of the society asserts that illegal construction has been made by the respondent no.1 herein and construction is continued. On the other hand, it is contended by Mr. R.R.Shah learned counsel for the contesting respondent that the construction has been made in accordance with law after taking permission from the society. Mr. B.S.Patel learned counsel appearing for the society supports the stand taken by Mr. Mehta and states that the construction is illegal and without taking permission of the society.

2. In view of the fact that a revision is pending before the Co-Operative Tribunal and that even the Arbitration Suit is not finally disposed of, in our view at this stage, we may not interfere with the order passed by the learned single Judge. It is however, clarified that the construction made during the pendency of the proceedings will be subject to the final outcome of the proceedings and that the respondent no.1 will not create any interest and/or, dispose of, sell or part with possession of property or part thereof in favour of third party during the pendency of the proceedings. It is open to the parties to request the authorities to dispose of the proceedings expeditiously. The Letters Patent Appeal deserves to be dismissed and is accordingly dismissed. Notice discharged. No order as to costs.

(C.K.Thakker.J)

(S.D.Pandit.J)